



February 25, 2013

Via Overnight Mail

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
601 D Street NW, Room 2121
Washington, DC 20579-0001

Re: United States et al. v. Hovnanian Enterprises, Inc.
DOJ Case No. 90-5-1-1-08709
National Compliance Summary Report

To Whom It May Concern:

Pursuant to paragraph 18a of the Consent Decree entered into by the United States and Hovnanian Enterprises, Inc. please find enclosed the National Compliance Summary Report for the period from January 1, 2012 to December 31, 2012.

Sincerely,

Dean Potter

National Stormwater Compliance Representative

cc: Lori Kier, Esquire, U.S. EPA Region III
✓ Chuck Schadel, U.S. EPA Region III
Director, Water Enforcement Division, U.S. EPA
Caroline Burnett, Office of the General Counsel, District Department of the Environment
Principal Counsel, Office of the Attorney General, MD Department of the Environment
Chief, Enforcement Division, Compliance Program, MD Department of the Environment
Director, Department of Conservation and Recreation, Commonwealth of Virginia
Elizabeth Andrews, Assistant Attorney General, Commonwealth of Virginia
Michael Zeto, Chief Inspector, WV Department of Environmental Protection
Jennifer Hughes, Esquire, WV Department of Environmental Protection
Michael Discafani, Esquire, Hovnanian Enterprises, Inc.
Jonathan Rinde, Esquire, Manko, Gold, Katcher & Fox, LLP
Ara Hovnanian, CEO, Hovnanian Enterprises, Inc.
Larry Sorsby, Executive Vice President & CFO, Hovnanian Enterprises, Inc.
Tom Pellerito, COO, Hovnanian Enterprises, Inc.
All Group and Division Presidents, Hovnanian Enterprises, Inc.
All Division Stormwater Compliance Representatives, Hovnanian Enterprises, Inc.

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

I. Overview

Pursuant to the requirements of the National Consent Decree, this overview provides a brief and general discussion of the data collected by Hovnanian Enterprises, Inc. ("Hovnanian") from January 1 to December 31, 2012. This is the third National Compliance Summary Report (the "Report") prepared in conformance with the National Consent Decree. This Report addresses nearly 300 individual sites in all states in which Hovnanian operates. Overall, the data presented herein demonstrate company-wide compliance with the Clean Water Act, permits issued pursuant to the National Pollution Discharge Elimination System ("NPDES") program, and the National Consent Decree.

The processes that Hovnanian has developed and implemented to ensure compliance with stormwater management requirements continue to be evaluated and refined at every level of Hovnanian, and the statistics show improved compliance in every category. For instance, in 2012, there were zero (0) days of discharge of pollutants from a Site to a water of the United States prior to obtaining coverage under an Applicable Permit, whereas in 2011 there were seventeen (17) such days. Similarly, in 2012 there were three (3) failures to perform or document a required Pre-Construction Inspection and Review ("PCIR"), whereas in 2011 there were twenty-four (24) such failures. Hovnanian attributes this particular improvement to the implementation of new PCIR-tracking procedures, as a direct result of Hovnanian's assessment of its PCIR practices conducted at the end of 2011. Hovnanian properly performed and documented over 15,000 inspections of its construction sites in 2012, which represents a 98.9% compliance rate, and again is an improvement over 2011's 97.5% compliance rate for inspection of Sites.

The statistics in this Report also note that 1,200 Quarterly Compliance Inspections and 1,200 Quarterly Compliance Review forms were required during 2012. Of these totals, zero (0) Quarterly Compliance Inspections were missed, and only two (2) of the Quarterly Compliance Review Forms were either not performed or not signed within the time period set forth in the Consent Decree. This improvement seems to be attributable to the continued benefit of the additional training of Division Representatives in the second half of 2011, which emphasized the

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

importance of the Quarterly Compliance Inspection and the timely preparation and execution of the Quarterly Compliance Review forms. Hovnanian had a properly trained Site Stormwater Compliance Representative at the time of a Quarterly Compliance Inspection 100% of the time. As in 2011, there were no instances in 2012 of a Division Wide Compliance Summary Report being prepared late.

As noted in the National Compliance Summary Report for 2011, Hovnanian had considered a recommendation that it record all Responsive Actions needed and undertaken at a Site, even if the Responsive Action was identified and/or performed on a day other than when the NPDES required periodic self-inspection was being performed. Hovnanian accepted this recommendation and implemented this new recordkeeping practice in 2012, which, as anticipated, increased the total number of Responsive Actions undertaken from roughly 23,000 in 2011 to 30,128 in 2012. In 437 instances, Hovnanian failed to complete the Responsive Action within the time period required by the Applicable Permit or, if completed, failed to record the information. Even so, these statistics represent a 98.5% compliance rate in performing timely Responsive Actions.

Finally, in late 2012, Hovnanian negotiated an Administrative Order on Consent ("AOC") and Consent Assessment of Civil Penalties ("CACP") with the U.S. Environmental Protection Agency ("EPA") to resolve alleged violations of stormwater-related requirements at two communities in Maryland. As of this writing, the AOC and CACP have been executed by Hovnanian and returned to EPA. Hovnanian believes that the circumstances alleged in the AOC and CACP were unique to these two communities and do not signify a more systemic compliance problem within Hovnanian. Once alerted to the conditions at these Sites, and prior to EPA's initiation of discussions with Hovnanian, Hovnanian took steps to address the conditions at these two communities in part by providing additional training to the Site Stormwater Compliance Representatives responsible for those Sites, and providing additional oversight to ensure that all requirements were met.

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

II. Information for Categories of Self-Reported Stipulated Penalties

<u>0</u>	Number of days of discharge of pollutants from a Site to a water of the United States prior to obtaining coverage under an Applicable Permit
<u>3</u>	Number of failures to perform or, if performed, a material failure to document a required Pre-Construction Inspection and Review
<u>159</u>	Number of failures to perform or, if performed, a material failure to document a required Site Inspection
<u>15,373</u>	Total number of required Site Inspections
<u>2</u>	Number of failures to perform or, if performed, a material failure to document a required Quarterly Compliance Inspection and Review
<u>1,200</u>	Total number of required Quarterly Compliance Inspection and Reviews
<u>0</u>	Number of Division Wide Compliance Summary Report prepared 1-7 days after deadline
<u>0</u>	Number of Division Wide Compliance Summary Report prepared 8-30 days after deadline
<u>0</u>	Number of Division Wide Compliance Summary Report prepared 31-90 days after deadline
<u>0</u>	Number of failures to have a Storm Water Trained Site Storm Water Compliance Representative at the time of a Quarterly Compliance Inspection and Review

III. Responsive Actions/SWP on Site

A. Responsive Actions

<u>30,128</u>	Total number of required Responsive Actions
<u>437</u>	Number of failures to complete Responsive Action within the time period required by the Applicable Permit or, if completed, a material failure to record the information.

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

B. SWP on Site

9 Number of failures to have, at the time of a Site Inspection, the SWP on site or its location posted

IV. Training Program

In 2012, Hovnanian's primary goal in its Stormwater Training Program was to continue its efforts to identify and address any gaps identified in its field associates' knowledge of effective stormwater management. On a bi-monthly basis, regular company-wide meetings were conducted with the Division Stormwater Compliance Representatives to gather their insights as to where greater training and discussion was needed. In addition, the National Stormwater Representative conducted numerous field visits to assess the effectiveness of the Stormwater Training Program and identify any training gaps. The information gathered during these bi-monthly meetings and field visits is used to help keep Hovnanian's annual refresher training current and to assist Hovnanian in delivering immediate additional training to our field associates.

Hovnanian's Stormwater Refresher Training program is refined slightly each year within the course outline set forth in the National Consent Decree to incorporate the training needs identified during the prior year. The Stormwater Refresher Training program (which is delivered via a voiceover PowerPoint presentation) currently covers the following Course Objectives:

- 1) Review core definitions of Stormwater Management.
- 2) Discuss the Fundamentals of Erosion Control Guidelines.
 - Stone Tracking Pad
 - Silt Fence
 - Inspecting Best Management Practices (BMPs)
 - Evidence of Sediment Leaving the Lot/Site
 - Rill Erosion
 - Concrete Wash Outs
- 3) Evaluate When to Conduct a Pre-Construction Inspection Review (PCIR)
- 4) Provide a Refresher on Conducting and Signing Site Inspections.
- 5) Review 2012 Stormwater Policy Updates.

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

To further support its efforts in 2012 to identify and address any knowledge gaps and to help improve overall compliance with stormwater requirements set forth in Applicable Permits and the Consent Decree, Hovnanian provided additional “in the field training” by internal stormwater training associates. This training was site-specific, in that it addressed issues related to individual construction Sites, and included the management team responsible for the Site. This training was especially effective because it was “real time” (*i.e.*, provided in person and on-site, not in a book or on a computer) and immediately relevant to the Hovnanian employees being trained.

In 2012, Hovnanian began placing an increased emphasis on visits by Hovnanian’s management to its Sites in order to evaluate Site conditions and compliance. The National Stormwater Compliance Representative, with the input of Site and Division Compliance Representatives, constantly assesses if additional training is needed whenever potential non-compliance with stormwater requirements is identified. In those cases, Hovnanian does not wait to address those issues in its annual Refresher Training. Instead, Hovnanian provides on-the-spot, one-on-one training to ensure that field associates clearly understand what their duties are with regard to stormwater management, and how to meet them. Also, all Division and Site Stormwater Representatives nationwide meet in person several times a year, which provides an opportunity to get updates on stormwater compliance and address common issues. This has been effective in reducing non-compliance issues as well.

Finally, in 2012, Hovnanian determined that its Technical Training Syllabus (one of the major components of Hovnanian’s Stormwater Training Program), which was approved in 2010 and has been administered by Stormwater USA since the National Consent Decree became effective, needed to be revised to incorporate requirements set forth in the new Construction General Permit issued by EPA on February 16, 2012. Accordingly, the online training program and exam questions were updated in late 2012, and the revised Technical Training Syllabus and supporting materials were submitted to EPA by Hovnanian’s counsel on January 17, 2013, with a request that the submission be approved as a Minor Appendix Modification to Appendix H of the Consent Decree. EPA approved this request by letter dated January 29, 2013.

HOVNANIAN ENTERPRISES, INC. NATIONAL COMPLIANCE SUMMARY REPORT

In conclusion, Hovnanian has improved the training program in 2012 by (1) delivering annual Stormwater Refresher Training focused on reinforcement of stormwater fundamentals, (2) delivering more in-the-field training and addressing specific Site issues directly and immediately, (3) placing a greater emphasis on site visits by Hovnanian management, and (4) updating the content and exam materials for its Technical Training Syllabus.

V. Signature and Certification

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

P. DEAN POTTER
By: Dean Potter
National Storm Water
Compliance Representative

P. Dean Potter
Signature

2-25-13
Date

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VI. Distribution

This form shall be sent to the following:

Chief, Environmental Enforcement Section, U.S. Department of Justice

Lori Kier, Esquire, U.S. EPA Region III

Chuck Schadel, U.S. EPA Region III

Director, Water Enforcement Division, U.S. EPA

Caroline Burnett, Office of the General Counsel, District Department of the Environment

Principal Counsel, Office of the Attorney General, MD Department of the Environment

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